

ZONING BOARD OF APPEALS

**Tuesday, July 21, 2009
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street**

Present:

ZBA Members: Alicia DiBenedetto Neubauer
Aaron Magdziarz
Dan Roszkowski
Scott Sanders
Craig Sockwell

Absent: Julio Salgado

Staff: Todd Cagnoni, Deputy Director, Construction & Development Services
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Mark Marinaro - Fire Prevention
Ron Schultz - City Attorney (arrived 6:40 PM)

Others: Reid Montgomery, Director Community & Economic Development
(left at 8:00 PM)
Alderman Bill Robertson (left at 7:45 PM)
Kathy Berg, Stenographer
Applicants and Interested Parties

Acting Chairman Dan Roszkowski called the meeting to order at 6:30 PM.

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.

The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as

Monday, August 3rd, at 4:30 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for any future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting.

A **MOTION** was made by Craig Sockwell to **APPROVE** the minutes of the June 16th meeting as submitted. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote 5-0 with Julio Salgado absent.

026-09 Zoning Map Amendment & Zoning Text Amendment

Applicant: City of Rockford

Ward 3 **Zoning Map Amendment** to include an Arts & Cultural Overlay District near and surrounding the downtown

Zoning Text Amendment to add Article 34

Todd Cagnoni, representing the City of Rockford, reviewed the request for Zoning Map and Text Amendment. The proposed district is south of Whitman; bordered to the east by North 2nd Street, Longwood and 9th Street; to the south by the railway; and to the west by Rockton Avenue. It includes downtown and the River District boundary. Mr. Cagnoni explained the existing zoning districts will remain in tact. The intent is to create a district in the area of, and including the downtown to encourage uses related to arts and cultural. This will also allow artist work/live spaces within the residential districts. The proposed Text Amendment defines an artist as: "An individual who practices in the creation, manufacture, exposition, display, sale, teaching, instruction, or assemblage of all art in any forms and media, including persons engaged in culinary arts (except as would qualify as a restaurant), painters (excluding painting contractors), sculptors, authors, screenwriters, playwrights, film makers, dancers, potters, weavers, jewelers, exhibitors, printers, costumers, musicians, photographers, architects, engineers, designers, computer programmers, video game developers, and other similar or related uses as approved by the Zoning Officer; excluding any individual engaged or in practice of operating a Sexually Oriented Business(s) as defined within this ordinance."

Additional limited signage will be allowed as well. Signs would be restricted from being illuminated internally and externally. He defined a sandwich sign and stated consideration is being given to a mobile sign that would apply within the proposed district only. Mr. Sanders asked if it is required that the artist live in the building as well, or could they have an artist space within a building. Mr. Cagnoni explained there are provisions within the text to apply for a Special Use Permit for a residence that may include both. In response to Ms. Neubauer's reference to suggestions by Rob Belles and Joe Zimmer, Mr. Cagnoni stated the proposed text incorporated public input and comments, including some of those suggested by Mistery Zimmer and Belles. He also pointed out that the Historic Preservation Commission rules would still apply to those four areas that are Historic Districts.

Supporters and Objectors were present.

Ed McCullough, 112 Regan Street was present as a supporter. He stated the proposed Overlay District sets a boundary that includes the downtown area as well as extending beyond to incorporate other areas as well. He felt such a District will allow more specific advertising to entice people to this area of the City.

Michael Goldberg, 291 Bienterra Trail, Director of the Coronado Theater spoke in support of this application. He stated he definitely sees the Coronado as an important part of the proposed district. He feels the payoff to the city as a result of such a project is 3 to 10 years down the road and now is the time to start.

Frank Schier, 910 Court Street, Rock River Times editor and publisher. He stated he is also one of the founders of the River District and feels this area is a primary live/work space. He expressed this type of movement is happening across the country.

Interested Parties with questions were also present.

Eric Williams, Chicago, stated he owns property within the Overlay District. He asked if there has been any thought to recruitment of minority artists and business owners. Mr. Cagnoni responded that the zoning map amendment and text does not address a specific element, but suggested Mr. Williams talk to Mr. McCullough about this suggestion.

Dale Hoff, 518 North 6th Street asked how this district would affect property taxes and asked if any grant or funding money would be available for artists that wanted to move into the area. Mr. Cagnoni stated he did not believe the District would encourage any increase in taxes; however, if an artist space were established within a residence that may affect taxes due to a change in use or improvements to the property, similar to any area of the city. There is no knowledge at this time regarding the availability of additional funding. Much of this area is in the TIF District and in the Downtown District which could benefit from funds.

One Objector was present.

Judy Litterst, 1215 Oakland Avenue, was present as an Objector. She stated the City needs to plan more on the foundation level of what is good for the community. It is her feeling that this is a “get rich scheme”

Mr. Cagnoni had no additional comments.

A **MOTION** was made by Scott Sanders to **APPROVE** the Zoning Map Amendment to include an Arts & Cultural Overlay District near and surrounding the downtown; and to **APPROVE** the Zoning Text Amendment to add Article 34 as submitted. The Motion was **SECONDED** by Craig Sanders and **CARRIED** by a vote of 5-0.

ZBA 026-09
Findings of Fact for a Zoning Map Amendment
To Include an Arts & Cultural overlay District
Near and Surrounding the Downtown

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial property because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as a mix of future land uses.

027-09

Applicant
Ward 1

6786 Guilford Road

Kevin Polky

Special Use Permit for a Planned Unit Development for a Medical Office with a Counseling Facility in an R-1, Single-family Residential District

The subject property is located east of Reid Farm Road, south of Clovernook and on the north side of Guilford Road and is currently a non-conforming travel agency. Kevin Polky, Applicant, reviewed the request for Special Use Permit. He wishes to establish a medical office and counseling facility at the subject property. He explained KP Counseling has been in existence for 8 years with a commitment for health and healing services. He stated protecting his clients and their confidentiality is a main concern and feels this building and location is a good environment towards that purpose. He stated he will add more landscaping and extend the 6' privacy fence for confidentiality. He wishes to keep the historical presence of this site. He is also considering building out the garage for office use. Mr. Polky stated he will not live on the premises.

Mr. Sanders asked if there would be any overnight patients. Mr. Polky stated he does not intend to offer that type of service. At this time he wishes to maintain the concrete area and just enhance the landscaping for financial reasons.

Sally Truitt, 6786 Guilford Road and the present owner stated she wished to verify that this is not a zoning change. She explained there is a second entrance to this property from Guilford Road. Because there was concerns from some Objectors regarding the lack of a traffic light at this located, Ms. Truitt pointed out there is no traffic light for Midway Village which is directly across the street and this has not proved a problem. Ms. Truitt stated she has known the Applicant for ten years and feels he will maintain the property.

Staff Recommendation was for Approval with 6 conditions. Objectors and Interested Parties were present.

Kimberly Edgcomb, Adjacent Property Owner at 1376 Reid Farm Road was present as an Objector. She presented her Objections in writing as well as photographs of the property and area. She expressed the Applicant's parking lot is adjacent to her property. The property owners on either side come very close to the Applicant's driveway. She feels there are established counseling facilities within a small radius of this property. She pointed out existing buildings with available spaces in the area already zoned for the Applicant's use. She stated there are no curbs or sidewalks on Reid Farm Road, that there is a lot of pedestrian traffic and she is concerned with the safety of residents walking to and from the bike path. Ms. Edgcomb feels this creates a potential for accidents. She stated if the parking lot must be striped this indicates to her this facility will cater to a lot of people. She also expressed concern over the type of clientele that would frequent this facility.

Joe McGraw, Adjacent Property Owner at 1344 Reid Farm Road stated he is not a supporter nor an objector, but is looking for more information. He asked what the type of counseling would take place at this facility. Mr. McGraw explained he works with the court system and is concerned with any drug or alcohol, domestic violence, or sex offenders that would be coming to the facility. He does not want this area to change the quality of environment due to the nature of the clientele. Signage was also one of his concerns. He also expressed concern that the Special Use Permit stays with the property and that the use would expand with time to other areas of counseling that would be detrimental to the neighborhood. Mr. McGraw is worried about court-referred counselees and all the problems that would entail.

Christina Wells, Adjacent Property Owner at 6806 Guilford wished clarification on this proposal. She stated she also has concerns about the type of people who would be coming into their neighborhood. She explained she has small children that will be playing in her yard near the Applicant's property. She further explained the Bed and Breakfast that existed in the building previously created a situation of people using their driveway by mistake and would like to clarify to the public which driveway belongs to the Applicant for his client's use.

Brian Jenkins Leggero, 2716 Ware Road, not an adjacent property owner, stated he drives down Reid Farm Road every day and is concerned with traffic at this residential area.

In response, Mr. Polky stated he currently has another business location at 461 North Mulford. He stated he does not see court ordered sex offenders, or court ordered DUI individuals. He does, however, counsel drug or alcohol addicted clients. He stated the Guilford Road location would be more focused on the health and wellness aspect of his business. He would maintain the 461 North Mulford location. Mr. Polky explained he sees only approximately 5% Medicaid patients and is not licensed for Medicaid. He does provide counseling for the school districts but these will be held off site. He stated he will not be pursuing that particular type of population at the proposed location. Sessions are generally hourly sessions. Mr. Polky stated each therapist could see 6 to 8 individuals a day. Evenings are typically ended by 5:00 PM. There may be a group of 6-8 individuals for evening sessions. Mr. Polky stated he assumes more traffic would be going to Guilford Road, but not certain at this point. He anticipates 25 parking spaces which he understands would be required to be striped. He would like the option to use both entrances, but would prefer Reid Farm Road. If there is any signage off of Guilford, Mr. Polky verified it would be more to direct clients to the proper driveway. Mr. Cagnoni clarified that because this is residential zoning, the only sign allowed would be an address indicator unless arrangements are made as part of the Special Use Permit.

Ms. Neubauer felt this was an interesting application for this unusual site. She verified with Mr. Polky that he would be building out the existing building, but not adding on. Mr. Polky also verified that a fence would obscure the parking area. Ms. Neubauer also asked Staff if the City had any plans for sidewalks in this area. Mr. Cagnoni stated he was not aware of any at this time. He further clarified that if the Board believes this use would warrant a pedestrian path on Reid Farm Road, that would be at the burden of the Applicant.

Mr. Sockwell suggested conditions on the type of patients be applied. Mr. Roszkowski would like to see concrete removed as much as possible within two years. Discussion was also held on conditions applied to signage. Mr. Sanders was comfortable with the restrictions on signage already in affect by the Ordinance. Mr. Sanders stated the concrete areas are part of the nature of the existing building as it was a farmstead originally and feels this is part of the uniqueness of the property.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a Planned Unit Development for a Medical Office with a Counseling Facility in an R-1, Single-family Residential District at 6786 Guilford Road with added conditions 7, 8, and 9. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of an updated interior site plan for staff review and approval.
3. Submittal of a parking lot permit with grading and striping for Staff review and approval.
4. Submittal of an updated landscaping plan for Staff review and approval.
5. The medical facility is limited to three therapists and one support staff.
6. Group therapy shall be limited to once a week at a maximum of eight (8) patients per session.
7. The Facility shall be restricted to outpatient care only.
8. People served at this facility are not to be court ordered sex offenders, domestic violence cases nor court ordered drug and alcohol substance abuse cases.
9. This facility shall not become Department of Alcohol and Substance Abuse (DASA) Certified.

ZBA 027-09
Findings of Fact for a Special Use Permit
For a Planned Unit Development for a Medical Office
With a Counseling Facility
In an R-1, Single-Family Residential Zoning District at
6786 Guilford Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1, Single-family Zoning District in which it is located.

028-09 Applicant Ward 4	<u>3741, 3743, 3745, 3747 North Alpine Road</u> First Rockford Apartments, LLC Modification of Special Use Permit #009-04 for a Planned Residential Development for two (2) four-family and one (1) three-family residences to three (3) four-family residences in a C-1, Limited Office Zoning District
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The subject property is located on the east side of North Alpine Road, 1,256 feet south of East Riverside Boulevard and currently consists of two four-family residences and vacant land. Marvin Keyes, representing the Applicant, reviewed the request. Currently there are 8 units constructed. Mr. Keyes explained the original plan was to construct a final three- unit building but due to public demand the Applicant wishes to change this plan to a four-unit building.

Staff Recommendation was for Approval with 4 conditions. No Objectors or interested parties were present.

Mr. Sanders asked Staff about the garages facing the street. Mr. Cagnoni stated this development was planned prior to the revised ordinance and also that this public street does turn into a private drive.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Modification of Special Use Permit #009-04 for a Planned Residential Development for two (2) four-family and one (1) three-family residences to three (3) four-family residences in a C-1, Limited Office Zoning District at 3741, 3743, 3745, 3747 North Alpine Road. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Must meet applicable Building and Fire codes.
2. Submittal of Building Permits for Staff review and approval.
3. Submittal of Elevations for Staff review and approval.
4. Site must be developed in accordance with site plan.

ZBA 028-09
Findings of Fact for a Modification of Special Use Permit #009-04
for a Planned Residential Development
For Two (2) Four-Family and One (1) Three-Family Residences
To Three (3) Four-Family Residences
In a C-1, Limited Office Zoning District at
3741, 3743, 3745 and 3747 North Alpine Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-1 District. As part of the PRD regulations unique design and site planning is encouraged.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-1 Zoning District in which it is located.

029-09 Applicant Ward 12	<u>3137 North Main Street</u> G.S. Investments LLC Special Use Permit for a drive-through in conjunction with a fast food restaurant in a C-2, Limited Commercial Zoning District
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The subject property is located directly across from the Jonathan Avenue and North Main Street intersection and is a now vacant former McDonalds Restaurant. Attorney Barton Henbest, representing the Applicant, was present. He explained the Applicant wishes to establish a fast food Dog and Suds restaurant. Because they wish to have a drive-through service, a Special Use Permit is required.

Staff Recommendation is for Approval with 2 conditions. A letter of support was received from Joe Geraghty and Jeanette Jess, owners of the property at 3137 North Main Street, located directly across the street from the subject property. No Objectors or Interested Parties were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a drive-through in conjunction with a fast food restaurant in a C-2, Limited Commercial Zoning District at 3137 North Main Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a detailed site plan showing the configuration of the indoor tenant space for Staff review and approval.

ZBA 029-09
Findings of Fact for a Special Use Permit
for a Drive-Through in Conjunction with a Fast Food Restaurant
In a C-2, Limited Commercial Zoning District at
3137 North Main Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-2 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-2 Zoning District in which it is located.

030-09 2906 Reid Farm Road

Applicant Louis G. DeVivo

Ward 1 **Variation** to reduce the minimum lot width standard of seventy (70) feet down to sixty eight (68) feet in an R-1, Single-family Residential District

The subject property is a single-family residence located on a 17,952 square foot lot on the east side of Reid Farm Road, north of Spring Creek Road. The Applicant, Gino DeVivo explained he wishes to subdivide this lot and establish a single-family residence on the newly created lot. Mr. DeVivo lives in the existing residence. He stated he is agreeable to Staff conditions.

Mr. Sanders asked for clarification on the reason for building another residential structure – Mr. DeVivo stated it was for himself. He further explained the new structure would have the same building setback as the other homes in the area. Mr. Cagnoni stated as a new subdivision this structure would require meeting regulations and character standards.

Staff Recommendation was for Approval with 3 conditions. One letter of Objection was received from Gregory Gill, an adjacent property owner at 2912 Reid Farm Road. Mr. Gill states building a house at this location "will create overcrowding and property esthetics will go down". He also states "it will also possibly prevent the sale of any real estate surrounded by these properties".

Mr. Sanders stated he does not support this request. He voiced that if this lot were split down the middle, it would meet code requirements with no hardship. He also felt this width compromises the typical pattern of width in the area. Mr. Roszkowski was in agreement.

A **MOTION** was made by Scott Sanders to **DENY** the Variation to reduce the minimum lot width standard of seventy (70) feet down to sixty eight (68) feet in an R-1, Single-family Residential District at 2906 Reid Farm Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

ZBA 030-09
Findings of Fact for a Variation
To Decrease the Required Minimum Lot Width
From Seventy (70) Feet to Sixty-Eight (68) Feet
In an R-1, Single-Family Residential Zoning District at
2906 Reid Farm Road

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

031-09 **280 North Phelps Avenue**
Applicant Louis Messina
Ward 10 **Special Use Permit** for operation of a sexually-oriented business as a performance use
in a C-3, General Commercial District

A request was made to Lay Over this item to the August 18th meeting.

A **MOTION** was made by Craig Sockwell to **LAY OVER** the Special Use Permit for operation of a sexually-oriented business as a performance use in a C-3, General Commercial District at 280 North Phelps Avenue to the August 18, 2009 meeting of the Zoning Board of Appeals. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 5-0.

024-09 **404, 410, 416, and 420 North Avon Street**
Applicant Mt. Zion Baptist Church / Pastor Marvin Hightower
Ward 13 **Special Use Permit** for a church and church related uses
Variation to reduce the required perimeter landscape by 50%
Variation to eliminate the required Type "A" landscape buffer in an R-1, Single-family
Residential District
Referred back to ZBA

At the request of Staff and the Applicant, this item was referred back to the Zoning Board of Appeals by City Council. Since the June meeting, the Applicant has agreed to the two adjacent properties to the north of the church currently owned by the City. Referring this item back to the Zoning Board will allow the Applicant to include these additional two lots in their request for Special Use permit, and allow them to redesign the parking lot without using access to the alley. Pastor Marvin Hightower verified that by acquiring these two properties it would eliminate the need to access from the alley. Mr. Sanders asked Staff if the distance to the residential area had now increased to eliminate the need for the Type A Buffer. Mr. Cagnoni stated this distance should be adequate to allow no additional plantings along the North property line, but could not give a definite answer until Staff has had the opportunity to review the new site plan.

Staff Recommendation was for Approval of all three items, with 3 conditions. No Objectors or interested parties were present.

Mr. Sanders wished to revise condition 1 to include a landscaping plan to meet Staff approval.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a church and church related uses; **APPROVE** the Variation to reduce the required perimeter landscape by 50%; and to **APPROVE** the Variation to eliminate the required Type "A" landscape buffer in an R-1, Single-family Residential District at 404, 410, 416 and 420 North Avon Street with the revision to condition 1 as stated. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Submittal of a revised site and landscape plan to meet Staff approval including type of planting species and sizes.
2. Submittal of a parking lot permit inclusive of civil drawings prepared by a licensed engineer.
3. That the alley is not used for access or if it is used it is improved to City standard and shown on the civil drawings.

ZBA 024-09
Findings of Fact for a Special Use Permit
for a Church and Church Related Uses
In an R-1, Single-Family Residential District at
404, 410, 416, and 420 North Avon Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district. The church has been in existence since 1948.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1 Zoning District and conditions of approval.

ZBA 024-09
Findings of Fact for a Variation
to Reduce the Required Perimeter Landscape by 50%
In an R-1, Single-Family Residential District at
404, 410, 416, and 420 North Avon Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 024-09
Findings of Fact for a Variation
To Eliminate the Required Type "A" Landscape Buffer
In An R-1, Single-Family Residential District at
404, 410, 416 and 420 North Avon Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

With no further business to come before the Board, the meeting was adjourned at 8:25

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals